2104-85

La. DISTRICT COURT

R. Brett Kelly **DEORCHIS & PARTNERS, LLP**

2010 HAR -5 P 1: 25

Organized in New York 1495 Morris Avenue Union, New Jersey 07083-6332 (973) 467-4740

Attorneys for Defendant SCHUMACHER CARGO LOGISTICS, INC.

KENNETH MARSH,

UNITED STATES DISTRICT COURT DISTRICT OF NEW JERSEY

Plaintiff,

NEWARK VICINAGE

- against -

Civil Action No. 10-1477 (JLL)

SCHUMACHER CARGO LOGISTICS, INC.

Defendant.

NOTICE OF REMOVAL PURSUANT TO 28 U.S.C. § 1446(a)

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NOTICE OF REMOVAL

Defendant SCHUMACHER CARGO LOGISTICS, INC. ("SCHUMACHER") hereby removes this action to the United States District Court for the District of New Jersey stating as follows:

- 1. **ORIGINAL ACTION:** This action was originally filed in the Superior Court of New Jersey, Essex County, Docket No. ESX-L-346-10.
- 2. **GROUNDS FOR REMOVAL:** The District Court would have original jurisdiction over this case under 28 U.S.C. §§ 1331 and 1333 in that Plaintiff's claim is actually for breach of a maritime contract which arises under Title 46 U.S.C. §§ 1300-1315, and/or under the

federal statutory and common law of the United States as it applies to international and interstate carriers and transportation. Specifically, this action seeks compensation for loss of cargo being moved in international and interstate commerce and this claim has been brought against Defendants pursuant to obligations allegedly imposed upon Defendants in their individual capacities as corporation that "has specialized in international car shipping." Additionally, Plaintiff has alleged in the Complaint that:

- a) Prior to July 30, 2009, arrangements were made with Schumacher to have the Camaro shipped to Israel. *Complaint* ¶ 6.
- 3. Thus this Honorable Court has original jurisdiction over the case pursuant to 28 U.S.C. §§ 1331 and 1333; this Honorable Court therefore has removal jurisdiction pursuant to 28 U.S.C. § 1441(a); and removal of this action is not otherwise prohibited by 28 U.S.C. §§ 1441(b), 1445(b).
- 4. **Copies of Materials Served on Defendant:** Copies of the Summons and Complaint served on Defendant is attached hereto; no other process, pleadings, or orders have been served on Defendant.
- 5. **Timeliness of Removal:** The Summons and Complaint were served on Defendant SCHUMACHER on February 3, 2010 and as such this Notice of Removal is timely.
- 6. Notice to the Plaintiff and Filing with the Clerk of the State Court: Defendant, by and through its undersigned counsel, is serving this Notice of Removal upon the Plaintiff via United States Mail and are filing a copy of same with the Clerk of Court for the Superior Court of New Jersey, Essex County, simultaneously with filing it with the Clerk of Court for this Court.
- 7. No previous application for the relief sought here has been made to this or any other court.

WHEREFORE, Petitioner prays that this Court grant the removal of this action to the District Court of the United States for the District of New Jersey, in which District this suit is pending.

Dated: Union, New Jersey

March 5, 2010

DEORCHIS & PARTNERS, LLP

Attorneys for Defendant SCHUMACHER CARGO LOGISTICS, INC.

1495 Morris Avenue

Union, New Jersey 07083-6332

(973) 467-4740 Our File: 2104-84

TO: TROUTMAN SANDERS LLP

The Legal Center

One Riverfront Plaza, 3rd Floor 1037 Raymond Boulevard

Newark, NJ 07102 (973) 645-0772

Attn: Mark I. Schlesinger, Esq.

CERTIFICATION

I, R. Brett Kelly, hereby certify that I caused a copy of this document has been served on all counsel of record pursuant to the requirements of the Federal Rules of Civil Procedure..

I swear under penalty of perjury that the foregoing is true and correct.

Dated: Union, New Jersey

March 5, 2010

S. R. Brett Kelly

R. Brett Kelly

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Attorney(s) Mark I. Schlesinger, Esq. Office Address 1037 Raymond Blvd., Suite 330	Superior C New Je	
Town, State, Zip Code Newark, NJ 07102 Telephone Number (973) 645-0772 Attorney(s) for Plaintiff Kenneth Marsh	Essex 7	COUNTY DIVISION
Carry	Docket No: ESX L-3	
Kenneth Mersh :: Plaintiff(s)	ō	
Vs. ()	CIVIL AC SUMMO	
Schumacher Cargo Logistics, Inc.		
Defendant(s)		
<u>*</u>	e):	

From The State of New Jersey To The Defendant(s) Named Above:

The pilintiff, named above, has filed a lawsuit against you in the Superior Court of New Jersey. The complaint attached to this summons states the basis for this lawsuit. If you dispute this complaint, you or your attorney must file a written answer or motion and proof of service with the deputy clerk of the Superior Court in the county listed above within 35 days from the date you received this summons, not counting the date you received it. (The address of each deputy clerk of the Superior Court is provided.) If the complaint is one in foreclosure, then you must file your written answer or motion and proof of service with the Clerk of the Superior Court, Hughes flustice Complex, P.O. Box 971, Trenton, NJ 08625-0971. A filing fee payable to the Treasurer, State of New Jersey and a completed Case Information Statement (available from the deputy clerk of the Superior Court) must accompany your answer or motion when it is filed. You must also send a copy of your answer or motion to plaintiff's attorney whose name and address appear above, or to plaintiff, if no attorney is named above. Acceptance call will not protect your rights; you must file and serve a written answer or motion (with fee of \$135 and completed Case Information Statement) if you want the court to hear your defense.

If you do not file and serve a written answer or motion within 35 days, the court may enter a judgment against you for the relief plaintiff demands, plus interest and costs of suit. If judgment is entered against you, the Sheriff may seize your money, wages or property to pay all or part of the judgment.

If you cannot afford an attorney, you may call the Legal Services office in the county where you live. A list of these offices is provided. If you do not have an attorney and are not eligible for free legal assistance, you may obtain a referral to an attorney by calling one of the Lawyer Referral Sornida. A list of these numbers is also provided. Its

Dated: 02/02/2010

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JenniferiMt Perez, Acting Clerk of the Superior Court

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Name of Definding to Be Served: Schumacher Cargo

Address of Defendant to Be Served: 688 S. 21 St., Irvington.

NOTE: The Case information Statement is available at http://www.njcourtsonline.com

Revised 7/1/2008, CN 10792

DIRECTORY OF SUPERIOR COURT DEPUTY CLERK'S OFFICES COUNTY LAWYER REFERRAL AND LEGAL SERVICES OFFICES

ATLANTIC COUNTY: Deputy Clerk of the Superior Court Civil Division, Direct Filing 1201 Bacharach Blvd., First Fl. Atlantic City, NJ 08401

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BERGEN COUNTY: Deputy Clerk of the Superior Court 2 Civil Division, Room 115 Justice Center, 10 Main St.

BURLINGTON COUNTY: Deputy Clerk of the Superior Court Central Processing Office Alin: Judicial Intake First Fl., Courts Facility 49 Rencocas Rd. Mt, Holly, NJ 08060

CAMDEN COUNTY:
DEputy Clerk of the Superior Court
Civil Processing Office
Hall of Justice
1871., Suite 150 101, South 5th Street Camden, NJ 08103

CAPE MAY COUNTY:
Deputy Clerk of the Superior Court
F.N. Main Street
Court House, NJ 08210 Cape May Court House, NJ 08210

CUMBERLAND COUNTY: Deputy Clerk of the Superior Court Clyil Case Management Office 60 West Broad Street P.O. Box 10 Bildgeton, NJ 08302

ESSEX COUNTY:
Députy Clerk of the Superior Court
Civil Customer Service
Hell of Records, Ruom 201
455 Dr. Martin Luther King Ir. Blyd,
Newark, NJ 07102

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LAWYER REPERRAL (609) 345;3444 LEGAL SERVICES (609) 348-4200

LAWYER REFERRAL (201) 488-0044 LEGAL SERVICES (201) 487-2166

LAWYER REFERRAL (609) 261-4862 LEGAL SERVICES (800) 496 4570 CL

LAWYER REFERRAL (856) 964-2520 LEGAL SERVICES (856) 964-2010 $\{ \gamma_{i,j} \}$

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LAWYER REFERRAL (856) 692-6207 LEGAL SERVICES (856) 451-0003

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Revised 7/1/2006, CN 10792

GLOUCESTER COUNTY: Deputy Clerk of the Superior Court Civil Cose Monagement Office Altn: Intake First FL, Court House I-North Broad Street Woodbury, NJ 08096

LAWYER REFERRAL (856) 848-4589 Legal Services (856) 848-5360

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HUDSON COUNTY: Deputy Clerk of the Superior Court Superior Court, Civil Records Dept. Briman Court House—1st Floor 583 Newark Ave. Jersey City, NJ 07306

LAWYER REFERRAL (2011 798÷2727 LEGAL SERVICES (201) 792-6363

HUNTERDON COUNTY Deputy Clark of the Superior Court Civil Division 65 Park Avenue Flemington, NJ 08822

LAWYER REFERRAL (908) 735-2611 LEGAL SERVICES (908) 782-7979

MERCER COUNTY: Deputy Clerk of the Superior Court Local Filing Office, Courthouse 175 S. Broad Street, P.O. Box 8068

LAWYER REFERRAL (609) 585-5200 LEGAL SERVICES (609) 695-6249

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Trenton, NJ 08650

LAWYER REFERRAL (732) 828-1053 LEGAL SPRVICES (732) 249-7500

MIDDLESEX COUNTY:
Liebuty Clerk of the Superior Court,
Middlesex Vicinage
Hill Floor - Tower
Tower
Paterson Street, P.O. Box 2633
New Brunswick, NJ 08903-2633

LAWYER REFERRAL (732) 431-3544 LEGAL SERVICES (732) 866 0020

MONMOUTH COUNTY: Deputy Clerk of the Superior Count Court House P.O. Box 1269 Freehold, NJ 07728-1269

> LAWYER REPERRAL (973) 267-5882 LEGAL SERVICES (973) 285-6911

MORRIS COUNTY: Morris County Courthouse Civil Division Washington and Court Streets P.O. Box 910 Morristown, NJ 07963-0910

LAWYES REPERRAL (732) 240 3666 LEGAL SERVICES (732) 34 2727

GEEAN COUNTY:
Disputy Clerk of the Superior Court
18 Washington Street, Room 121
15 0. Box 2191 Toma River, NJ 08754-2191

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PASSAIC COUNTY: Deputy Clerk of the Superior Court Civil Division Court House 77 Hamilton Street Paterson, NJ 07505

LAWYER REFERRAL (973) 278-9223 LEGAL SERVICES (973) 523-2900

SALEM COUNTY:

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Deputy Clerk of the Superior Court Attn: Civil Case Management Office 92 Market Street Şalem, NJ 08079

4 1 · LAWYER REFERRAL (856) 678-8363 LEGAL SERVICES (856) 451-0003

SOMERSET COUNTY:

Deputy Clerk of the Superior Court Civil Division P.O. Box 3000 40 North Bridge Street Somerville, N.J. 08876

LAWYER REFERRAL (908) 685-2323 LEGAL SERVICES (908) 231-0840

SUSSEX COUNTY: Debuty Clerk of the Superior Court Sussex County Judicial Center 43-47 High Street Newton, NJ 07860

LAWYER REFERRAL (973) 267-382 LEGAL SERVICES (973) 383-7400

UNION COUNTY:

Deputy Clerk of the Superior Court 1et Fl., Court House 2 Broad Street Pjizabeth, NJ,07207-6073

LAWYER REFERRAL (908) 353-4715 LEGAL SERVICES (908) 354-4340

WARREN COUNTY:

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Deputy Clork of the Superior Court Civil Division Office Court House 413 Second Street Bayldare, NJ 07823-1500

LAWYER REFERRAL (973) 267:5882 LEGAL SERVICES (908) 475-2010

Mark I. Schlesinger, Esq. TROUTMAN SANDERS LLP The Legal Center One Riverfront Plaza, 3rd Floor 1037 Raymond Boulevard Newark, New Jersey 07102 973-645-0772 Attorneys for Plaintiff

SUFERIOR COURT UP NEW JERSEY LAW DIVISION ESSEX VISINAGE JAN 1 3 2010 FINANCE DIVISION RECEIVED/HILL SUPERIOR COURT OF NEW JERSEY

KENNETH MARSH

Plaintiff.

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SCHUMACHER CARGO LOGISTICS, INC.

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Defendant,

COMPLAINT

HILL

LAW DIVISION: ESSEX COUNTY

Docker No.: ESX L-346-10

Civil Action

Plaintiff, Kenneth Marsh, by and through his counsel, Troutman Sanders LLP, by way of this Complaint, hereby alleges and says: . *He* :

- Plaintiff Kenneth Marsh ("Marsh") resides in the State of Ohio and has an address 1. of 6555 Monterey Drive, Mayfield Heights, Ohio 44124.
- 20 El Defendant Schumacher Cargo Logistics, Inc. ("Schumacher") is a California corporation authorized to do business in New Jersey having an address at 688 South 21" Street, Irvington New Jersey 07111.
- 3,7,7 On its web site, www.schmmacheroargo.com, Schumacher states that it "has specialized in international car shipping since 1977," avers that "[y]ou san be confident that your vehicle[s]; will arrive at their destinations in the same condition you handed them over to us" and claims that "whether you are moving a car . . ., you will be comfortable knowing that our shipping company will take care of all aspects of your relocation needs."

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- On its web site, <u>www.schumachercargo.com</u>, Schumacher fluther represents that "[w]hile contents are in a Schumacher Cargo Logistics warehouse or at one of our many international hendling agents warehouses, contents are insured by warehouse coverage for a limited thus."
- 5. Marsh is the owner of a fully-restored 1969 Chevrolet Camaro bearing VIN 124379N641081 (the "Camaro").
- 6. Prior to July 30, 2009, arrangements were made with Schumacher to have the Camaro shipped to Israel.
- On July 30, 2009, the Camaro was delivered to Schillinacher's facility located at 688 South 21st Street, Irvington, NJ 07111.
- Upon delivery of the Camaro to its Irvington facility, Schumacher took control of the Camarate, issued an Auto Inspection & Receipt Report, Inventory & Exception Report dated July 30, 2009 and took photographs of the Camaro.
- Upon information and belief, Sohumacher then parked the Camero in Schumacher's outdoor, unguarded lot.
- 10 hip On August 2, 2009, the Camero was stolen from Schumacher's outdoor, unguarded lot.
- 14. 21 Schomacher has acknowledged to Marsh "that due to a break in at our Irvington, NJ 07111 warehouse/yard on August 2, 2009 your cargo was stolen as a result of this break in ... We apologies [sic] for any inconvenience this may cause you as we continue to assist with the claim process professionally and promptly with your assistance & cooperation."
- Marsh has fully cooperated with Schumacher and has supplied Schumacher with all information requested of him.

Despite due demand and contrary to its representations as set forth in paragraphs 3 and 4 above. Schumacher has failed and refused to reimburse Marsh for the loss of the Camaro entrusted to it that was stolen from its unguarded outdoor lot.

Page Page

7 14

FIRST COUNT

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- Plaintiff repeats and realleges as if fully set forth paragraphs 1 through 13 of this complaint.
- 15. Schumacher negligently failed to exercise reasonable and ordinary care with respect to the Camaro.

WHEREFORE, plaintiff Kenneth Marsh demands judgment against defendant Schumacher Cargo Logistics, Inc. for compensatory damages with interest, costs of suit and such other relief as the Court deems just and proper.

SECOND COUNT

- 16. Plaintiff repeats and realleges as if fully set forth paragraphs 1 through 15 of this complaint.
- 17. The services offered by Schumacher are "merchandise" within the scope of the Consumer Frank Act, N.J.S.A. 56:8-1(c).
- 18. EFThe representations set forth in paragraph 3 and 4 and Schumacher's failure and refusal to reliaburse Marsh for the theft of his Camaro from Schumacher's facility constitute an unconscionable commercial practice, deception, fraud, falsity or misrepresentation in connection with the sale of Schumacher's services.
- 19. As a result of Schumacher's conduct, Marsh has suffered an ascertainable loss of money and property as set forth above.

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WHEREFORE, plaintiff Kenneth Marsh demands judgment against defendant Schumacher Cargo Logistics, Inc. for compensatory damages with interest, treble damages, a ressonable attorneys' fee, costs of suit and such other relief as the Court deems just and proper.

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JURY DEMAND

Plaintiff Kemeth Marsh demands trial by jury as to all issues in the above matter.

DEMAND FOR DISCOVERY OF INSURANCE COVERAGE

Pursuant to New Jersey Court Rule 4:10-2(b), demand is made that defendant disclose to plaintiff's attorney whether or not there are any insurance agreements or policies under which Cher (any person or firm carrying on an insurance business may be liable to satisfy part or all of a vit o judgment which may be entered in this action or indemnify or reimburse for payments made to satisfy the judgment and provide plaintiff's attorney with true copies of those insurance agreements on policies, including, but not limited to, any and all declaration sheets. This demand shall include and cover not only primary coverage, but also any and all excess, catastrophe and umbrella policica, 145

CERTIFICATE OF SERVICE UPON THE ATTORNEY GENERAL

dia. in accordance with N.I.S.A. 56:8-20, plaintiff will mail a copyrof this complaint to the Attorney General within 10 days after the filing of such pleading with the Court,

DESIGNATION OF TRIAL COUNSELCOPICS

1993年1995 In accordance with R. 4:25-4, Mark I. Schlesinger, Esq., is hereby designated as trial ₽Ľ. counsel for the plaintiff, Kenneth Marsh, in the above matter. 15. . lic

CERTIFICATION

I hereby certify that the matter in controversy is not the subject of any action pending in any other court or in any other pending arbitration proceeding, nor is any such action or proceeding contemplated by this plaintiff at this time. There are no additional parties known to the undersigned at this time who should be joined in this action.

Dated: Newark, New Jersey January 12, 2010

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TROUTMAN SANDERS LLP

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Mark I. Schlesinger

Attorneys for Plaintiff

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ATTORNEY/PRO SE NAME	TELEPHONE NUMBER	COUNTY OF VENUE
Mark I. Schlesinger	(978) 645-0772	Essex
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CIVIL CASE INFORMATION STATEMENT

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